

Amendment No. _____

Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 2166*

House Bill No. 2353

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 35-15-813(e)(2), is amended by deleting the last sentence in the subdivision and substituting the following:

To the extent a settlor, trust advisor, or trust protector directs a trustee not to send its report or other information otherwise required to be furnished under this section to a beneficiary or beneficiaries and does not designate a representative to receive the information, the trustee shall send the information it would otherwise be required to send to the beneficiary or beneficiaries to the settlor, trust advisor, or trust protector, which has the same effect as sending the report or other information otherwise required to be furnished under this section to the beneficiary or beneficiaries.

SECTION 2. Tennessee Code Annotated, Section 35-15-1206, is amended by deleting the section in its entirety.

SECTION 3. Tennessee Code Annotated, Section 35-15-205(b)(1), is amended by deleting the subdivision and substituting the following:

(1) The name and address of the then-serving trustee, trust advisor, and trust protector, to the extent known by the petitioner;

SECTION 4. Tennessee Code Annotated, Section 35-15-205(c), is amended by deleting the subsection and substituting the following:

(c) The petition must be served on each trustee, trust protector, trust advisor, and qualified beneficiary or their representative under part 3 of this chapter to the extent there is no material conflict of interest.



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SECTION 5. Tennessee Code Annotated, Section 35-15-205(e), is amended by deleting the word "petition" and substituting the language "final accounting".

SECTION 6. Tennessee Code Annotated, Section 35-15-205(f), is amended by deleting the subsection and substituting the following:

(f) In accordance with § 35-15-1004, costs and expenses, including reasonable attorney's fees of the petitioner, must be taxed against the trust, unless otherwise directed by the court.

SECTION 7. Tennessee Code Annotated, Section 35-15-604, is amended by deleting the section and substituting the following:

(a) A person may commence a judicial proceeding to contest the validity of a trust that was revocable immediately preceding the settlor's death within the earlier of:

(1) Two (2) years after the settlor's death; or

(2) One hundred twenty (120) days after the trustee sent the person a copy of the trust instrument and a notice informing the person of the trust's existence, the trustee's name and address, and the time allowed for commencing a proceeding to contest the validity of the trust.

(b) Upon the death of the settlor of a trust that was revocable immediately preceding the settlor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust. Except as provided in § 35-15-817, the trustee is subject to liability for making the distribution only if at the time of the distribution:

(1) The trustee had actual knowledge of a pending judicial proceeding contesting the validity of the trust; or

(2) A potential contestant had notified the trustee in writing of a possible judicial proceeding to contest the trust and the judicial proceeding is commenced within sixty (60) days following the trustee's receipt of the notification.

(c) In the event a trust or trust provision is adjudged to be invalid by the final judgment of the court having jurisdiction, which judgment is subject to no further appeal,

any beneficiary having received an improper distribution shall, upon receipt of a copy of such order, return the improper distribution to the court. If the beneficiary fails to return the improper distribution to the court, the beneficiary is liable for costs, including reasonable attorney's fees, incurred to recover the improper distribution from the beneficiary.

SECTION 8. Tennessee Code Annotated, Section 35-15-817, is amended by deleting the section and substituting the following:

35-15-817. Distribution upon termination, partial termination, or fiduciary removal or resignation-- Discharge of fiduciary liability.

(a) Upon the occurrence of an event terminating or partially terminating a trust, or upon the trustee's removal or resignation, the trustee shall proceed to distribute the trust property to the persons entitled to it within a reasonable period of time, subject to the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, attorney fees, and taxes.

(b) A trustee may send a notice pursuant to this section seeking to be relieved from liability upon such trustee's removal or resignation, or upon the full or partial termination of the trust.

(c) A notice sent by a trustee under this section must include:

(1) A statement of the fair market value of the trust's assets and the trust's liabilities, known to the trustee, as of a date specified in the notice, which date must not be more than thirty (30) days prior to the date the notice is sent;

(2)

(A) A statement of the following during the time period determined under subdivisions (c)(2)(B) and (C):

(i) Gains and losses on trust assets;

(ii) Fees and expenses paid to the trustee and the trustee's advisors;

(iii) Fees and expenses paid to a trust advisor, trust protector, and any advisors of a trust advisor or trust protector;

(iv) Taxes paid;

(v) The trust's receipts, including the source and the amount of each such receipt;

(vi) The trust's disbursements, including the recipient of the disbursement and the amount of each such disbursement; and

(vii) A reasonable estimate of the remaining fees and costs to be paid by the trust prior to the removal, resignation, or termination, as applicable;

(B) A statement required under subdivisions (c)(2)(A)(i)-(vii) must cover the time period that begins with the most recent of:

(i) The date of acceptance of the trusteeship by the trustee sending the notice;

(ii) The end of the period since an accounting was last approved by the court pursuant to § 35-15-205; and

(iii) If a notice was previously sent in compliance with this section by the trustee sending the notice, then the date upon which the time period under subsection (f) terminated and no person timely objected in a writing delivered to the trustee, or, to the extent an objection was timely made in a writing and delivered to the trustee, then

the date on which the objections were resolved by nonjudicial settlement agreement under § 35-15-111; provided, however, that in no event shall the period described in this subdivision (c)(2)(B) exceed three (3) years;

(C) The ending of the time period covered by a statement required under subdivisions (c)(2)(A)(i)-(vii) must be no more than thirty (30) days prior to the date that the notice is sent;

(3) A statement of the beginning and ending dates of the time period covered by the statement required under subdivisions (c)(2)(A)(i)-(vii);

(4) A proposal for distribution;

(5) Notice that the trust is terminating in whole or in part, or that the trustee has resigned or has been removed and a statement providing that claims against a trustee under §§ 35-15-604 and 35-15-1005, if applicable, are barred if no objections specifically referencing the notice are received in writing by the trustee within the time period described in subsection (f);

(6) The name, telephone number, and mailing or electronic mail address of each trustee, trust advisor, and trust protector, to the extent known by the trustee sending the notice; and

(7) The name, telephone number, and mailing or electronic mail address of a person who may be contacted for additional information.

(d) A notice sent by a trustee under this section shall be sent to:

(1) The grantor, if living;

(2) Each qualified beneficiary or such qualified beneficiary's representative under part 3 of this chapter to the extent there is no material conflict of interest; and

(3) All other then-serving trustees, trust advisors, and trust protectors known to the trustee sending the notice.

(e) The trustee may also provide the notice to any person not described in subsection (d) whom the trustee reasonably believes may also have an interest in the trust.

(f) The right of any person described in subsection (d), or to whom the trustee sent a notice pursuant to subsection (e), to object to the notice under this section terminates if the person does not notify the trustee in writing of an objection within forty-five (45) days after the person received the notice.

(g) If the trustee sending the notice complies with this section, and if no person described in subsection (d), or to whom the trustee sent a notice pursuant to subsection (e), objects within the time period prescribed in subsection (f), then the trustee shall within a reasonable period of time following the expiration of such period, distribute the trust's assets as provided in the proposal for distribution included in the notice.

(h) If the trustee sending the notice complies with this section, and if no person described in subsection (d) and no person to whom the trustee has distributed a notice pursuant to subsection (e) objects within the time period prescribed in subsection (f), then the trustee sending the notice is relieved from any liability for the period covered by the notice, and the persons who received notice under this section are time barred from:

(1) Commencing a judicial proceeding to contest the validity of the trust, except as otherwise provided in § 35-15-604;

(2) Commencing a judicial proceeding for a claim of breach of trust against the trustee to the same extent and with the same preclusive effect as if the court had entered a final order approving the trustee's account under § 35-15-205; and

(3) Commencing a judicial proceeding for a claim of breach of fiduciary duty against a co-trustee, trust advisor, or trust protector for failure to object to the trustee's notice under this section.

(i) A trustee may rely upon the written statement of a person indicating no objection to the notice as a failure to object within the time period prescribed in subsection (f) regardless of whether such time period has terminated.

(j) If the trustee receives a written objection within the period prescribed in subsection (f) from any person to whom the trustee sent a notice, then the trustee may resolve the objection by nonjudicial settlement agreement under § 35-15-111 or seek judicial relief under § 35-15-205.

(k) For the purpose of determining the date a notice was received, if the confirmation of the date of receipt is unavailable, then the notice is presumed to have been received ten (10) business days after the date of mailing.

(l) This section does not preclude a trustee from proceeding under § 35-15-205 to have the trustee's accounts reviewed and settled by the court.

(m) If the person entitled to the trust property under subsection (a) is the trustee of another trust, or the successor trustee of the same trust, and there is a vacancy in the office of that trustee, then the otherwise applicable provisions of this chapter apply, including §§ 35-15-704 and 35-15-707. A vacancy in the office of a trustee, as described in this subsection (m), does not change the notice and time periods required by this section.

SECTION 9. Tennessee Code Annotated, Section 35-15-1005(e), is amended by adding the following language immediately preceding the period at the end of the subsection:

, or for any matter covered by a notice under § 35-15-817 if the provisions of § 35-15-817 were complied with and no objections were made within the time period prescribed in § 35-15-817

SECTION 10. Tennessee Code Annotated, Section 35-16-111(2), is amended by adding the following language at the end of the sentence:

provided, however, that a trust provision effecting a transfer by reason of the transferor's death to the transferor's estate, another trust, either established during the transferor's lifetime or at the transferor's death, or pursuant to the transferor's last will and testament or other testamentary instrument, is not a power to appoint to the transferor, the transferor's creditors, the transferor's estate, or the creditors of the transferor's estate;

SECTION 11. Tennessee Code Annotated, Section 35-15-816(c)(1), is amended by deleting the following language:

(1) A trustee who has authority, under the terms of a testamentary instrument or irrevocable inter vivos trust agreement, to invade the principal of a trust to make distributions to, or for the benefit of, one (1) or more proper objects of the exercise of the power, may instead exercise that authority by appointing all or part of the principal of the trust in favor of a trustee of a trust under an instrument other than that under which the power to invade is created or under the same instrument if the exercise of that authority:

and substituting the following:

(1) A trustee who has authority, under the terms of a testamentary instrument or irrevocable inter vivos trust agreement, to invade the principal of a trust to make distributions to, or for the benefit of, one (1) or more proper objects of the exercise of the power, may instead exercise that authority by appointing all or part of the principal of the trust in favor of a trustee of a second trust if the exercise of that authority:

SECTION 12. Tennessee Code Annotated, Section 35-15-816(c)(12), is amended by deleting the subdivision and substituting the following:

(12) For purposes of this section:

(A) "Original trust" means the trust from which principal is being distributed; and

(B) "Second trust" means an original trust after modification or restatement under this section, or a trust to which a distribution of property from an original trust is or may be made under this section; provided, that the exercise of the power to appoint principal under this subsection (c) to a second trust by restatement or modification of the original trust does not require the retitling of property titled to the original trust or a change in any payable on death or beneficiary designations to the original trust, even if the second trust is created by a fiduciary or other person as the nominal settlor.

SECTION 13. Tennessee Code Annotated, Section 35-15-1301(a)(4), is amended by adding the language "organized in this state" immediately preceding the semicolon at the end of the subdivision.

SECTION 14. Tennessee Code Annotated, Section 35-15-1301(b)(11), is amended by deleting the subdivision and substituting instead the following:

(11)

(A)

(i) During the thirty-day period ending on the date the organizer files formation documents with the secretary of state, the organizer of the prospective entity sends notice to the department of its intention to form a special purpose entity, which notice must include the following:

(a) The name, address, and telephone number of each organizer; and

(b) The name of the prospective corporate trustee; and

(ii) Within thirty (30) days after the date on which an entity is created, the entity pays a one-time initial fee of one thousand dollars (\$1,000) to the department and notifies the department of:

- (a) The entity's existence;
- (b) The entity's capacity to act; and
- (c) The name of the corporate trustee for each separate trust for which the entity is engaged as a trust protector or trust advisor;

(B) A special purpose entity formed pursuant to this section shall comply with this section; provided, however, any entity that complied with subdivision (b)(11)(A)(ii) only on or before August 1, 2022, is in compliance with this section;

(C) Except for an entity that complied with subdivision (b)(11)(A)(ii) on or before August 1, 2022, the notice described in subdivision (b)(11)(A)(ii) must include a copy of the notice provided to the department under subdivision (b)(11)(A)(i); and

SECTION 15. Tennessee Code Annotated, Section 48-17-301, is amended by deleting the section and substituting instead the following:

48-17-301. Voting trusts.

(a) One (1) stockholder, or two (2) or more stockholders by agreement, may in writing deposit capital stock of an original issue with or transfer capital stock to any person or entity authorized to act as trustee, for the purpose of vesting in the person or entity, who may be designated voting trustee, or voting trustees, the right to vote thereon for any period of time determined by such agreement, upon the terms and conditions stated in such agreement. The agreement may contain any other lawful provisions not inconsistent with such purpose. After delivery of a copy of the agreement to the registered office of the corporation in this state or the principal place of business of the corporation, which copy must be open to the inspection of any stockholder of the corporation or any beneficiary of the trust under the agreement daily during business hours, certificates of stock or uncertificated stock must be issued to the voting trustee or

trustees to represent any stock of an original issue so deposited with such voting trustee or trustees, and any certificates of stock or uncertificated stock so transferred to the voting trustee or trustees must be surrendered and cancelled and new certificates or uncertificated stock must be issued to the voting trustee or trustees. A certificate so issued must state that it is issued pursuant to such agreement, and that fact must also be stated in the stock ledger of the corporation. The voting trustee or trustees may vote the stock so issued or transferred during the period specified in the agreement. Stock standing in the name of the voting trustee or trustees may be voted either in person or by proxy, and in voting the stock, the voting trustee or trustees shall not incur responsibility as stockholder, trustee, or otherwise, except for their own individual malfeasance. In any case where two (2) or more persons or entities are designated as voting trustees, and the right and method of voting any stock standing in their names at any meeting of the corporation are not fixed by the agreement appointing the trustees, the right to vote the stock and the manner of voting it at the meeting shall be determined by a majority of the trustees, or if the trustees are equally divided as to the right and manner of voting the stock in any particular case, the vote of the stock in such case must be divided equally among the trustees.

(b) Any amendment to a voting trust agreement must be made by a written agreement, a copy of which must be delivered to the registered office of the corporation in this state or principal place of business of the corporation.

(c) This section does not invalidate any voting or other agreement among stockholders or any irrevocable proxy that is not otherwise illegal.

SECTION 16. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code

Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 17. The Tennessee Code Commission is requested to publish in Tennessee Code Annotated the revisions required to conform to the current state of the law official comments for Chapters 5, 6, 15, and 16 of Title 35 that are filed with the executive secretary of the Tennessee Code Commission by June 10, 2022, unless a later date is provided by the executive secretary, by duly authorized representatives of the Trust Committee of the Tennessee Bankers Association.

SECTION 18. This act takes effect upon becoming a law, the public welfare requiring it.

House Children & Family Affairs Subcommittee Am. # 1

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2455*

House Bill No. 2623

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 36-6-306(e), is amended by adding the following as new subdivisions:

(5) An aunt or great-aunt; or

(6) An uncle or great-uncle.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.



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Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2056

House Bill No. 2070*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 37-1-102, is amended by deleting subdivision (b)(27)(C) and substituting:

(C) The commission of an act toward the child prohibited by § 39-13-309, §§ 39-13-502 — 39-13-504, § 39-13-515, § 39-13-522, § 39-13-527, § 39-13-531, § 39-13-532, § 39-15-302, § 39-15-402, § 39-17-1004, § 39-17-1005, or the knowing failure to protect the child from the commission of such an act toward the child;

SECTION 2. Tennessee Code Annotated, Section 36-1-113, is amended by deleting subsection (b) and substituting:

(b)

(1) The prospective adoptive parent or parents, including extended family members caring for a related child, a licensed child-placing agency having physical custody of the child, the child's guardian ad litem, or the department have standing to file a petition pursuant to this part or title 37 to terminate parental or guardianship rights of a person alleged to be a parent or guardian of the child, pursuant to § 36-1-117(a). The prospective adoptive parents, including extended family members caring for a related child, have standing to request termination of parental or guardianship rights in the adoption petition filed by them pursuant to this part.

(2)



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(A) When one (1) of the child's parents has been convicted of aggravated rape pursuant to § 39-13-502, rape pursuant to § 39-13-503, or rape of a child pursuant to § 39-13-522, from which crime the child was conceived, the child's other parent has standing to file a petition to terminate the parental rights of the convicted parent.

(B) When one (1) of the child's parents has been convicted of one (1) of the offenses specified in subdivision (g)(11)(A)(ii), the child's other parent has standing to file a petition to terminate the parental rights of the abusive parent.

(C) When one (1) of the child's parents or legal guardians has been convicted of attempted first degree murder or attempted second degree murder of the child's other parent or legal guardian, the child's non-offending parent or legal guardian has standing to file a petition to terminate the parental or guardianship rights of the convicted parent or legal guardian.

(3) This section does not give a parent or legal guardian standing to file a petition to terminate parental or guardianship rights based on grounds other than those listed in subdivision (b)(2).

(4) The court shall notify the petitioning parent that the duty of future child support by the parent who is the subject of the termination petition will be forever terminated by entry of an order terminating parental rights.

SECTION 3. Tennessee Code Annotated, Section 36-1-113, is amended by deleting subdivision (g)(10)(B) in its entirety.

SECTION 4. Tennessee Code Annotated, Section 36-1-113, is amended by deleting subdivision (g)(11)(B) in its entirety.

SECTION 5. Tennessee Code Annotated, Section 36-1-113, is amended by deleting subdivision (g)(15)(B) in its entirety.

SECTION 6. Tennessee Code Annotated, Section 36-1-113(g)(11)(A)(ii), is amended by adding the following as new subdivisions:

- () Trafficking for a commercial sex act, pursuant to § 39-13-309;
- () Promoting prostitution, pursuant to § 39-13-515;
- () Sexual battery by an authority figure, pursuant to § 39-13-527;
- () Aggravated rape of a child, pursuant to § 39-13-531;
- () Statutory rape by an authority figure, pursuant to § 39-13-532;
- () Aggravated child abuse and aggravated child neglect or endangerment, pursuant to § 39-15-402;

SECTION 7. Tennessee Code Annotated, Section 36-1-123(b), is amended by deleting the language "Actions to enforce such order post-adoption may be brought in the court that issued the order or in the court hearing the adoption" and substituting instead "Actions to enforce or modify such order post-adoption may be brought by the adoptive parent in the court that issued the order or in the court that heard the adoption".

SECTION 8. Tennessee Code Annotated, Section 36-1-122(b), is amended by adding the following as a new subdivision (b)(4):

- (4) After a final order of adoption is entered, an order shall not be entered requiring visitation or other contact between an adopted person and a biological parent or other biologically related person unless the order is entered pursuant to § 36-1-145.

SECTION 9. Tennessee Code Annotated, Section 36-1-102, is amended by deleting subdivision (15)(C) and substituting:

- (C) The process as described in § 36-1-117(g) by which a parent co-signs an adoption petition with prospective adoptive parents who are unrelated to the child to be adopted for the purpose of agreeing to make the child available for adoption by the co-petitioning prospective adoptive parents, and that permits the court to enter an order of guardianship to give the adoptive parents custody and supervision of the child pending completion or dismissal of the adoption proceeding or pending confirmation or

revocation of the consent by the parent. This process must be called a "parental consent";

SECTION 10. Tennessee Code Annotated, Section 36-1-117, is amended by deleting subdivision (g)(2) and substituting:

(2) It is specifically and expressly declared that the act of signing the adoption petition does not terminate the parental rights of such parent until the court where the adoption petition is filed has entered an order confirming the parental consent. Prior to the court entering an order confirming the parental consent:

(A) The parent shall answer, in writing and under oath, each of the questions required pursuant to § 36-1-111(b)(4), and submit the parent's answers to the court on a substantially similar form; and

(B) The court shall:

(i) Witness the parent's or guardian's signature on the form; and

(ii) Confirm the parental consent by verifying the parent's answers to the questions required pursuant to § 36-1-111(b)(4), and by witnessing the parent's signature on an affidavit acknowledging the parental consent.

SECTION 11. Tennessee Code Annotated, Section 36-1-111, is amended by deleting subdivision (j)(3)(A) and substituting:

(A) In all other respects, prior to the entry of an order confirming the parental consent, the court, or other persons authorized by this part to accept surrenders, shall:

(i) Witness the actual act of surrender by witnessing the parent's or guardian's signature on the surrender form; or

(ii) Confirm the parental consent by verifying the parent's answers to the questions required pursuant to subdivision (b)(4), and by witnessing the parent's signature on an affidavit acknowledging the parental consent.

SECTION 12. Tennessee Code Annotated, Section 36-1-115, is amended by deleting subsection (d) and substituting:

(d) The petitioner or petitioners shall live and maintain their regular place of abode in this state when the adoption is filed. Nonresidents may also file a petition to adopt a child in this state if they file the petition in the county where a court granted the nonresidents, a licensed child-placing agency, or the department of children's services partial or complete guardianship or legal custody of the child, or where the child was placed in the legal custody of the licensed child-placing agency or the department of children's services.

SECTION 13. Tennessee Code Annotated, Section 36-1-113(g)(5), is amended by deleting the language "two (2) or more years" and substituting the language "more than two (2) years".

SECTION 14. Tennessee Code Annotated, Section 36-1-113(g)(9), is amended by adding the following as a new subdivision (g)(9)(C):

(C) For the purposes of this subdivision (g)(9), resuming or starting visitation or support after the filing of a petition seeking to terminate parental or guardianship rights or seeking the adoption of a child does not rectify a ground for termination pursuant to this subdivision (g)(9) and is not a defense to a ground for termination pursuant to this subdivision (g)(9).

SECTION 15. Tennessee Code Annotated, Title 36, Chapter 1, Part 1, is amended by adding the following as a new section:

Notwithstanding §§ 36-1-102, 36-1-125, 36-1-126, 36-1-127, 68-3-313, or another law to the contrary, all adoption records, sealed adoption records, and unsealed adoption records deemed to be confidential pursuant to this part will be a public record and open to inspection when one hundred (100) years have elapsed since the date the adoption was finalized. If an adoption was not finalized, or the date the adoption was finalized is not clearly indicated in the adoption record, then the adoption record will be a public record and open to inspection when one hundred (100) years have elapsed since the creation of the oldest dated item in the adoption record.

SECTION 16. Tennessee Code Annotated, Section 36-1-117(g)(3), is amended by deleting the last sentence of the subdivision and substituting:

If the parent executing the parental consent cannot be found or does not appear at the time of such hearing, the court may terminate that parent's rights upon any grounds available pursuant to a petition filed under § 36-1-113.

SECTION 17. Sections 9 and 11 of this act take effect at 12:01 a.m. on July 1, 2022, the public welfare requiring it. All other sections of this act take effect July 1, 2022, the public welfare requiring it.